

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff(s),

No. C 07-4762 PJH

v.

ORDER GRANTING MOTION TO AMEND

CHARLES CATHCART, et al.,

Defendant(s).

Before the court is the motion of the United States to file a first amended complaint which adds three new defendants and clarifies several factual allegations, but adds no new causes of action. Only the four individual defendants remain; two of which do not oppose the motion, one of which is silent, and one of which does oppose the motion.

Fed. R. Civ. P. 15(a) requires that a plaintiff obtain either consent or leave of court to amend its complaint once the defendant has answered, but "leave shall be freely given when justice so requires." See, e.g., Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990) (leave to amend granted with "extreme liberality"). Leave to amend is thus ordinarily permitted unless the amendment is futile, untimely, would cause undue prejudice to the defendants, or is sought by plaintiffs in bad faith or with a dilatory motive. DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir.1987); Foman v. Davis, 371 U.S. 178, 182 (1962).

The court has carefully reviewed the papers submitted by the parties. There is no suggestion by the objecting defendant that the proposed amendment is futile, untimely, or is sought in bad faith, and the court finds that it is not. The court is further unpersuaded by defendant Debevc's allegations of prejudice, because on balance, the additional time that

1 will be required for plaintiff to take discovery as to the new defendants and the impact of
2 the addition of new defendants on Debevc's ability to negotiate a settlement with plaintiff,
3 do not outweigh plaintiff's right to bring all necessary parties before the court and to fully
4 litigate this matter given the liberality of pleading practice under Rule 15. Accordingly, the
5 motion to amend is GRANTED. The hearing date of April 23, 2008 is VACATED.

6 **IT IS SO ORDERED.**

7 Dated: April 18, 2008



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PHYLLIS J. HAMILTON
United States District Judge